

STATE OF MICHIGAN
COURT OF APPEALS

TOWNSHIP OF CLAY,

Plaintiff/Counterdefendant-
Appellant,

v

BRIAN STONE and POLICE OFFICERS ASS'N
OF MICHIGAN,

Defendants/Counterplaintiffs-
Appellees.

UNPUBLISHED

January 10, 2006

No. 256326

St. Clair Circuit Court

LC No. 03-002186-AA

Before: O'Connell, P.J., and Smolenski and Talbot, JJ.

MEMORANDUM.

Plaintiff appeals as of right from the trial court's order affirming the arbitration award granting defendant Stone back pay and benefits. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Plaintiff first argues that Arbitrator Ammeson exceeded his jurisdiction and authority under the terms and conditions of the collective bargaining agreement when he determined that the second suspension, already ruled upon as a just cause suspension by Arbitrator Buratto, was not warranted as it "would be arbitrary, capricious and unjust." Judicial review of an arbitrator's decision is very limited; a court may not review an arbitrator's factual findings or decision on the merits. *Service Employees Int'l Union Local 466M v City of Saginaw*, 263 Mich App 656, 660; 689 NW2d 521 (2004). Review of an arbitration award is narrowly circumscribed and limited to determining whether the arbitration award exceeded the arbitrator's contractual authority expressly circumscribed in the arbitration contract. *Port Huron Area School District v Port Huron Ed Ass'n*, 426 Mich 143, 150; 393 NW2d 811 (1986); *Sheriff of Lenawee Co v Police Officers Labor Council*, 239 Mich App 111, 117-118; 607 NW2d 742 (1999).

A review of all three arbitration awards reveals that Ammeson's decision followed the previous final and binding decisions and was within the authority conferred upon him by the collective bargaining agreement. Ammeson did not overrule Buratto's opinion and never stated that plaintiff did not have just cause to suspend defendant while criminal charges were pending against him. Rather, Ammeson did not believe that the circumstances justified a two-year suspension with pay. Moreover, Buratto offered no guidance and expressly declined to answer whether defendant deserved to be suspended without pay during the pendency of the criminal

charges. Accordingly, we affirm the trial court's order affirming Ammeson's award of back pay and benefits for defendant.

Plaintiff also argues that the trial court misconstrued its argument resulting in an unfair review of plaintiff's legal position before the trial court. Issues regarding an order to enforce, vacate or modify an arbitration award are reviewed de novo. *Tokar v Albery*, 258 Mich App 350, 352; 671 NW2d 139 (2003). A review of the trial court's opinion reveals that the trial court was aware of, and properly addressed, plaintiff's issue. The trial court specifically stated the arbitrator's authority was limited by final and binding decisions, such as Buratto's. The trial court noted that the issue before Ammeson was the exact issue that Buratto had anticipated in his opinion and left to the parties or another proceeding to determine. The trial court concluded that, since there was no contradiction between the decisions, it could not conclude that Ammeson had exceeded his authority by disregarding Buratto's final and binding decision. Although the trial court may have worded the statement of the issue differently than plaintiff, it is clear that the trial court properly reviewed and decided the issue that plaintiff presented.

Affirmed.

/s/ Peter D. O'Connell
/s/ Michael R. Smolenski
/s/ Michael J. Talbot